IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX APPLICATION NO.133 OF 2000

The Commissioner of Income-tax,
City-IV, Mumbai .. Appellant.
V/s.
M/s.Associated Cement Co. Ltd. .. Respondent.

Mr.R.V. Desai, senior counsel with Mr.R. Asokan for the appellant.
Mr.P.C. Tripathi for the respondent.

CORAM : S. RADHAKRISHNAN &
J.P. DEVADHAR, JJ.

DATED : 1ST MARCH, 2005.

P.C. :

Heard learned counsel for the appellant and the respondent.

2. The following substantial questions of law are sought to be raised in the above application.

1. Whether on the facts and in the circumstances of the case and in law the Income Tax Tribunal was right in law in deleting the addition of interest capitalised of Rs.5,56,49,420/- since such interest was paid on borrowings obtained for a new project and hence, in the nature of capital expenditure ?

2. Whether on the facts and in the circumstances of the case and in law the Income Tax Tribunal was right in law in deleting the addition of commitment charges of Rs.7,46,516/- as such charges were paid in connection with the borrowings obtained for a new project and hence, in the nature of capital expenditure ?

3. With regard to question 1 as well as question 2, the learned counsel for the revenue and the learned counsel for the respondent concede that the issues are squarely covered against the revenue and in favour of the assessee by the judgment of Division Bench of this Court in Income Tax Appeal No.500 of 2002 dated August 24, 2004.

4. Under these circumstances, there is no merit in the above application. The application stands dismissed.

(S. RADHAKRISHNAN, J.)

(J.P. DEVADHAR, J.)